

## **Requirement to Redact Personal Identifiers**

Pursuant to Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, the parties in a case have an obligation to redact certain "personal identifiers" from both pleadings and court transcripts. The personal identifiers that must be redacted include the following:

- Social security and financial account numbers should include just the last four digits.
- Names of minor children should be referenced by initials only.
- Dates of birth should include the year of birth only.
- In criminal cases, any home address should include just the city and state.

To review a Notice from the Judicial Conference of the United States urging counsel to exercise caution when filing a pleading containing personal identifiers or other sensitive information, please click [here](#).

## **Requirement to Redact Personal Identifiers in Pleadings**

To address the privacy concerns created by Internet access to court documents, Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1 require the filing attorney to refrain from including, or to partially redact where inclusion is necessary, the above listed personal identifiers from all filings with the court. Exemptions from these redaction requirements are expressly listed in the rules. Fed. R. Civ. P. 5.2(b); Fed. R. Crim. P. 49.1(b).

## **Obligation to Review Transcripts for Personal Identifiers**

Within twenty-one (21) days after the date on the Notice of Electronic Filing of a Transcript, any party who purchased an original or a copy of the transcript shall:

- Review the transcript to determine whether it contains any personal identifiers listed in Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1, whichever is applicable, and
- Electronically file a Transcript Redaction Request if that party concludes the transcript contains personal identifiers that must be redacted.

AP 4.2 (b). Any party that did not request an original or copy of the transcript may also review the transcript for personal identifiers and may electronically file a Transcript Redaction Request within this same twenty-one (21) day period. Id.

The responsibility for redacting personal identifiers rests solely with counsel and the parties. Id. Neither the court reporter nor court staff are responsible to independently redact information from the case unless there is a redaction request by a party to the case. Id. The parties will be charged no fee for redactions made by a court reporter. Id. If a purchasing party does not timely file a Transcript Redaction Request, no redaction will be made and the original transcript will be publicly available ninety (90) days from the date the original transcript was filed with the court. AP 4.2(d).

If counsel would like to request further redactions, in addition to those personal identifiers listed in the Federal Rules of Procedure, counsel must move the court by filing a separate Motion to Redact Transcript. AP 4.2(c).

### **Avoid Inadvertent Disclosure of Redacted Material by Using Proper Redaction Techniques**

Depending upon the redaction technique used, it is possible that the redacted information may appear to be hidden or blocked in the document but the underlying protected information (metadata still imbedded in the document) may be accessed by technologically sophisticated members of the public. For example, the highlighter function in Adobe creates a black box over the data, but it merely hides the data. While the redacted information is unreadable, the metadata is still imbedded in the document. Anyone can copy the black box, paste it into a word-processing document, and the information under the black box appears.

Fortunately, there are effective means of eliminating this metadata from electronic documents. The simplest method is to omit the information from the original document. For example, a Social Security number can be included as XXX-XX-1234. Commercially-available software also can be used to redact, not just hide, the sensitive information. While the court does not endorse any product, Redax from Appligent is one commercial product widely used by federal agencies. Adobe Acrobat Professional is another commercial product having a redaction tool that scrubs the metadata and other information from the document.

In addition to information available on the Internet, the Northern District of California has posted helpful information about redaction on its public website, which can be accessed [here](#).